

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JAMES OWENS, as Administrator of the)
Estate of)
Donald Brazell,)
Plaintiff,)
vs.) CIVIL ACTION
GENESIS HEALTHCARE, LLC, SUN) FILE NO.: 4:14-cv-28 (CDL)
HEALTHCARE GROUP, INC.,)
SUNBRIDGE HEALTHCARE, LLC,)
JOHN DOES 1 THROUGH 10, AND)
UNIDENTIFIED ENTITIES 1 THROUGH)
10 (as to Fountain City Care and)
Rehabilitation Center).)

Defendants.

NOTICE OF REMOVAL

Come now GENESIS HEALTHCARE, LLC, SUN HEALTHCARE GROUP, INC., and SUNBRIDGE HEALTHCARE, LLC, Defendants herein and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 file this Notice of Removal by showing the Court as follows:

1. On December 19, 2013 a civil action was filed by Plaintiff in the State Court of Georgia, Muscogee County, Georgia, styled *James Owens as Administrator of the Estate of Donald Brazell v. Genesis Healthcare, LLC, Sun Healthcare Group,*

Inc., SunBridge Healthcare, LLC, John does 1 through 10 and Unidentified Entities 1 through 10 (as to fountain City Care and Rehabilitation Center), Case No. SC 13 CV 948. The Complaint is attached hereto as Exhibit "A".

2. Defendants were served served with the summons and Complaint on January 2, 2014. See Courts Automatic Tracking System ("CATS") attached hereto as

Exhibit "B".

3. The Complaint asserts a cause of action in tort under the laws of the State of Georgia for damages allegedly sustained by decedent Donald Brazell while a resident at SunBridge Retirement Care Associates, LLC, d/b/a, Fountain City Care and Rehabilitation Center, k/n/a River Towne Center, located on Warm Springs Road in Muscogee County, Columbus, Georgia.

4. The relief the Plaintiff seeks includes, *inter alia*: a) general and special damages, including pain and suffering; and b) punitive damages. The amount in controversy is more than \$75,000.

DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)

5. This Honorable Court has jurisdiction over this matter under 28 U.S.C. § 1332(a) as there is complete diversity of citizenship between the Plaintiff and Defendants and more than \$75,000, exclusive of interest and costs, is at stake.

6. Plaintiff alleges the decedent is a resident and citizen of Muscogee County, Georgia (See, Exhibit "A" attached to Plaintiff's Complaint).

7. Defendants are not citizens of Georgia as they are incorporated in states other than Georgia, to wit Delaware and New Mexico. Therefore, there is complete diversity between the Plaintiff and Defendants in this action.

**ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN
SATISFIED**

9. Pursuant to 28 U.S.C. §1446(a), a true and correct copy of all of the process, pleadings, orders, and documents from the State Court action which have been served upon these Defendants are being filed with this Notice of Removal. Defendants have filed with this Notice of Removal, or will timely supplement and file, a Notice of Disclosure Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure.

10. This Notice of Removal has been filed within 30 days of service of the summons and Complaint in this matter. Removal is therefore timely in accordance with 28 U.S.C. § 1446(b).

11. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the U.S. District Court for the Middle District of Georgia, Columbus Division is the federal judicial district in which the State Court action was originally filed and where the alleged tort occurred.

12. Pursuant to 28 U.S.C.A. § 1446(d), a Notice of Filing of Notice of Removal is today being served upon all parties and delivered to the Clerk of the Superior

Court of Muscogee County for filing. A copy of said Notice of Filing of Notice of Removal is attached hereto as Attachment C (without duplicative attachments).

By this Notice of Removal, Defendants do not waive any objections they may have as to service, jurisdiction, venue, or any other defenses or objections they may have to this action. Defendants intend no admission of fact, law or liability by this Notice, and expressly reserve all defenses, motions and/or pleas.

Respectfully submitted this 3rd day of February, 2014.

HALL BOOTH SMITH, P.C.

/s/ Mark W. Wortham
T. ANDREW GRAHAM
Georgia Bar No. 30477
Mark W. Wortham
Georgia Bar No. 777065

Attorneys for Defendant

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Defendants.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing DEFENDANTS' NOTICE OF REMOVAL upon all parties to this matter by depositing a true copy of same in the U.S. Mail, proper postage prepaid, properly addressed to the following:

James B. McHugh, Esq.
Michael J. Fuller, Jr., Esq.
D. Bryant Chaffin, Esq.
McHugh Fuller Law Group
97 Elias Whiddon Road
Hattiesburg, MS 39402

Respectfully submitted this 3rd day of February, 2014.

HALL BOOTH SMITH, P.C.

/s/ Mark W. Wortham

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